REMARKS

Claims 2 and 8-12 are pending in the present application. Claims 1-12 were presented for examination. Claims 1 and 3-7 have been cancelled.

In the office action mailed March 2, 2005 (the "Office Action"), the Examiner rejected claims 1 and 3-7 under 35 U.S.C. 101 stating that the claimed invention is directed to non-statutory subject matter. The Examiner further rejected claims 1-12 under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,848,395 to Edgar *et al.* (the "Edgar patent").

The drawings were indicated as being objected to by the Examiner in the Office Action Summary, however, there is not indication of the objection in the Office Action. Clarification by the Examiner whether the drawings are objected to is requested.

As previously mentioned, claims 1 and 3-7 have been cancelled by amendment. Consequently, the Examiner's rejection of these claims is now moot. Claims 1 and 3-7 have been cancelled in order to focus examination on the remaining claims, and should not be interpreted as tacitly acknowledging the merits of the Examiner's rejections of claims 1 and 3-7.

Remaining claims 2 and 8-12 are currently rejected as being anticipated by the Edgar patent. These claims, however, are patentably distinct from the Edgar patent, as will be discussed in more detail below.

The Edgar patent fails to disclose the combination of limitations recited by claim 2. For example, the Edgar patent fails to disclose generating a list of schedulable time blocks, intersecting the opening and the appointment window to obtain a time range defined by the overlap of the opening and the appointment window, and choosing the opening in which to assign the order if a schedulable time block from the list of schedulable time blocks includes the opening, and wherein the opening is within the time range. The Edgar patent is directed to a booking and scheduling system where appointments are made initially through the use of an appointment server 12, and jobs associated with the appointments are then scheduled to the resources by an appointment booking scheduler 13. The system includes a database 10 in which several tables 30 are stored. Each table includes several routes 31, with each route having a number of jobs to be performed by a particular "operative" for a day.

The appointment server 12 is used to reserve time for handling customer jobs. The process of finding time slots in the stored tables which can be offered to the customer to

book an appointment for a new job is described in the Edgar patent as, "the appointment server searches the routes to find one which visits the region [in which the customer is located] and which contains sufficient free time within that region." See col. 2, lines 22-27. The customer selects one of the available appointments, and the appointment server 12 associates the new job with the selected route. Additional appointments are added to the different routes until a predetermined number of additional appointments are reached (described in the Edgar patent as the "trigger number"). At this point, the appointment booking scheduler 13 reviews the current routes and the new appointments and schedules the jobs to the different operatives. As part of the process of scheduling, the appointment booking scheduler 13 performs an optimization process. The result of the scheduling and optimization process is a new table 30 having new routes that incorporate the additional appointments.

In the description of the appointment server 12 and appointment booking scheduler 13 found in the Edgar patent, there is no discussion of intersecting an opening and an appointment window to obtain a time range defined by the overlap of the opening and the appointment window. Nor is there a description of choosing the opening in which to assign the order if a schedulable time block from the list of schedulable time blocks includes the opening, and wherein the opening is within the time range. The Edgar patent simply describes the process of finding time slots as searching the routes to find one that "contains sufficient free time." There is no detailed discussion about finding potential time slots in which to make appointments, nor is there any further discussion as to the process of determining what constitutes an acceptable time slot for the appointment. Much of the difference between the Edgar patent and the present invention is based on the fact that the present invention is directed to a scheduling system that can be used to schedule an appointment for customers in a timely manner. In contrast, the Edgar system does schedule new jobs while a customer is making the appointment. As previously discussed, in the Edgar system, appointments are scheduled only after a certain number of new appointments have been reserved. See col. 2, lines 20-41.

Additionally, the Edgar patent does not consider the case where the customer has specified an opening and an appointment window. The Edgar patent simply describes the case where a customer wants to make an appointment, and is offered possible time slots in which an appointment can be made. This is the opposite situation that has been described in the present

application, where the customer can specify in addition to an appointment window an opening in a schedule associated with a particular worker. That is, the system described in the present application allows for a customer to request a particular worker for an appointment, thus, allowing for a customer's preferences to be handled in a timely manner.

For the foregoing reasons, claim 2 is patentably distinct from the Edgar patent, and the rejection of claim 2 under 35 U.S.C. 102(b) should be withdrawn.

With respect to claim 8, the Edgar patent fails to describe the combination of limitations recited, and consequently, claim 8 is patentably distinct from the Edgar patent. For example, the Edgar patent fails to disclose checking a list of openings for overlap with the appointment window, generating a list of schedulable time blocks in a shift if there is no overlap, where each of the schedulable time blocks in the list having an opening that overlaps with the appointment window, and assigning the order to the schedule if there is an opening in the list of openings that overlaps with the appointment window or an opening in the list of schedulable time blocks that overlaps with the appointment window.

As previously discussed with respect to claim 2, the Edgar patent describes an appointment server 12 that searches for available time slots in the routes which can be offered to a customer for making an appointment. Other than describing that the appointment server 12 "searches the routes to find one which visits the region and which contains sufficient free time within that region," the Edgar patent does not disclose how the appointment server 12 finds the time slots. As recited in claim 8, a list of openings is reviewed for overlap with an appointment window and a list of schedulable time blocks is generated for a shift if there is no overlap in the list of openings. Each of the schedulable time blocks in the list that is generated has an opening that overlaps with the appointment window. If there is an opening in the list of openings that overlaps with the appointment window or an opening in the list of schedulable time blocks that overlaps with the appointment window, the order is assigned to the schedule. In contrast, the Edgar patent describes a system where appointments are first reserved in predetermined time slots, which are only scheduled by an appointment booking scheduler 13 after a minimum number of appointments are first made. There is no discussion of reviewing any list of openings, or generating a list of schedulable time blocks, or assigning an order to the schedule based on the list of openings or the list of schedulable time blocks.
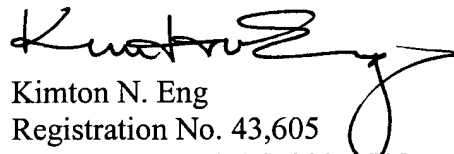
The description of the appointment booking scheduler 13 found in the Edgar patent also fails to describe the combination of limitations recited by claim 8. The appointment booking scheduler 13 initially generates a number of sequences of jobs (i.e., schedules), which are then optimized using a simulated annealing process. The sequences of jobs are optimized by changing an existing order of jobs to determine if the change results in a lower cost function. The optimized sequences are then used to create a new table 30 having new sets of routes. None of this, however, describes the combination of limitations recited by claim 8. Additionally, the description of the reactive scheduler 14, the Gantt manager 15, and the watchdog 16 in the Edgar patent also do not disclose the combination of limitations recited by claim 8. According to the Edgar patent, the reactive scheduler 14 is similar to the appointment booking scheduler 13, except that the reactive scheduler 14 is capable of optimizing the sequence of jobs for the routes from the latest best iteration of the routes. As previously discussed, the description of the appointment booking scheduler 13 in the Edgar patent does not disclose the combination of limitations recited by claim 8. The Gantt manager 15 is described in the Edgar patent as providing the ability to view current routes graphically. The watchdog 16 monitors the status of the jobs and initiates the appointment booking scheduler in response to a threshold number of appointments are booked to a particular route. These elements of the appointment booking and scheduling system described in the Edgar patent are not analogous to any of the limitations recited in claim 8, nor do any operate in a manner recited in claim 8.

For the foregoing reasons, claim 8 is patentably distinct from the Edgar patent. Claims 9-12, which depend on claim 8, are also patentably distinct based on their dependency from allowable claim 8. That is, each of the dependent claims further narrows the scope of the claim from which it depends, and consequently, if a claim is dependent from an allowable base claim, the dependent claim is also allowable. Therefore, the rejection of claims 8-12 under 35 U.S.C. 102(b) should be withdrawn.

All of the claims pending in the present application are in condition for allowance. Favorable consideration and a timely Notice of Allowance are earnestly solicited.

Respectfully submitted,

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